

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Mohammad KHALID,
10404 Vineyard Lane Apt # 114
Fairfax, VA 22030

Plaintiff,

v.

UNITED STATES CITIZENSHIP
AND IMMIGRATION SERVICES,
T. DIANE CEJKA, Director,
The National Records Center, USCIS
SARAH TAYLOR, USCIS Acting District
Director of Washington,
MICHAEL CHERTOFF, Secretary,
Department of Homeland Security,
MICHAEL MUKASEY, Attorney General,
Department of Justice

Defendants.

COMPLAINT FOR INJUNCTIVE
RELIEF UNDER THE FREEDOM
OF INFORMATION ACT

COMPLAINT FOR INJUNCTIVE RELIEF

I. Jurisdiction

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning the “A-file” or “alien file” of Mr. Mohammad KHALID, A# 96 254 112, receipt # NRC2008010137, which defendant has improperly withheld from plaintiff for over ten months after initial request by plaintiff on February 4, 2008.
2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

II. Parties

3. Plaintiff, Mohammad KHALID, is the requestor of the records which defendant is now withholding. Plaintiff has requested this information in order to pursue his immigration case with the full understanding of the charges against him. Prompt release of the information is essential to his being able to pursue the full set of rights to which he is entitled under the immigration laws of the United States.
4. Defendant United States Citizenship And Immigration Services (“USCIS”) is an agency within the Department of Homeland Security which has the custody and control of alien files or “A-files” which plaintiff seeks. USCIS is an agency within the meaning of 5 U.S.C. §552(f).
5. Defendant T. Diane Cejka is sued in her official capacity as the Director of the USCIS National Records Center. The National Records Center (“NRC”) is the central repository of the agency’s alien files or “A-files” and responds to FOIA requests for copies of these records. The NRC is also the office which has possession of the records Plaintiff seeks.
6. Defendant Sarah Taylor is sued in her official capacity as the District Director of the USCIS Washington District Office where plaintiff filed his application for Adjustment of Status under INA §245.
7. Defendant Michael Chertoff is sued in his official capacity as the Secretary of the Department of Homeland Security¹. In this capacity he has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. §1103(a) including the accurate, efficient and secure processing of immigration benefits.

8. Defendant Michael Mukasey is sued in his official capacity as the Attorney General of the United States and is charged with the authority and duty to direct, manage, and supervise all employees and all files and records of the Department of Justice.

III. Facts

9. By letter dated February 4, 2008, accompanied by a completed form G-639, plaintiff requested “copies of any and all notes, letters, correspondence, telephone logs and memoranda, investigative reports, transcripts, applications, petitions, receipts, documents, certificates and all annotations made thereon and whether originating with your agency, this office or the names individual on whose behalf copies of the aforementioned are sought; which you have in your possession, custody, control, under you legal authority or of which you have knowledge either as to their existence or their whereabouts.” A copy of this letter is attached as Exhibit 1.
10. By letter dated February 21, 2009, defendant USCIS acknowledged the receipt of plaintiff’s request described above and informed plaintiff that such request was “being handled under the provisions of the Freedom of Information Act (5 USC §552). A copy of this letter is attached as Exhibit 2.
11. By letter dated October 20, 2008, plaintiff inquired as to the status of his FOIA request under Control #NRC2008010137. A copy of this letter is attached as Exhibit 3.

12. Since the sending of the final letter (Exhibit 3) inquiring as to the status of the FOIA request, defendant has neither provided the documents requested, nor responded to said inquiry.
13. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's excessive delay in providing plaintiff with copies of his A-file.

WHEREFORE, plaintiff requests this Court:

1. Order defendant to provide the requested documents;
2. Expedite this proceeding as provided for in 28 U.S.C. § 1657, as this is a complaint filed under 5 U.S.C. § 552;
3. Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
4. Grant such other and further relief as it may deem just and proper.

Respectfully submitted,

/s/ Paul Shearman Allen
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Washington, D.C. 20036
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Email: info@drgreencard.com

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PROPOSED ORDER

The court, this _____ day of _____, 2009, after considering the facts of the case, hereby orders plaintiff's Complaint for Injunctive Relief be and hereby is GRANTED; and

FURTHER orders the defendants produce the requested documents.

Judge

CERTIFICATE OF SERVICE

I, Paul Allen, do hereby certify that on the 13th day of January, 2009, I caused true and correct copies of the foregoing document to be served via certified mail on the following:

Director,
USCIS, National Records Center
P. O. Box 648010
Lee's Summit, MO 64064-8010

District Director,
USCIS Washington District Office
2675 Prosperity Avenue
Fairfax, VA 22031.

Secretary, U.S. Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Attorney General, U.S. Department of Justice,
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Respectfully submitted,

//s/ attorney for plaintiff/
Paul Shearman Allen, DCN 167940
Paul Shearman Allen & Associates
1329 18th Street, N.W.
Washington, D.C. 20036